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3 | UNITED STATES GRAND JURY

4 SOUTHERN DISTRICT OF NEW YORK

-V- : November 8, 2018, Special

8 STEPHEN M. CALK,  
(2017R00368)

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12 ||| March 4, 2021  
3:26 p.m.

14 | APPENDICES:

15 PAUL MONTELEONI  
Assistant United States Attorney

17 BENET KEARNEY  
Assistant United States Attorney

18 HAGAN SCOTTEN  
Assistant United States Attorney

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JENNIFER MYRIE  
Acting Grand Jury Reporter

FREE STATE REPORTING, INC.  
Court Reporting Transcription  
D.C. Area 301-261-1902  
Balt. & Annap. 410-974-0947

1 (Colloquy Precedes)

2 (Witness Enters Room)

3 (Time Noted: 3:50 p.m.)

4 JAMES HILLIARD called as a witness, having been duly sworn  
5 by the Foreperson of the Grand Jury, was examined  
6 and testified as follows:

7 BY MR. MONTELEONI:

8 Q. Good afternoon, Special Agent Hilliard. Do you  
9 remember testifying before this grand jury back in 2019  
10 about your investigation of an individual named  
11 Stephen Calk?

12 A. Yes.

13 Q. During the course of that investigation have you  
14 spoken with other people, including other law enforcement  
15 agents?

16 A. I have.

17 Q. Have you reviewed reports and documents prepared  
18 by others?

19 A. Yes, I have.

20 Q. Will your testimony today, like last time, be  
21 based in part on those conversations with other people and  
22 documents you reviewed?

23 A. Yes, it will.

24 MR. MONTELEONI. Ladies and gentlemen of the  
25 grand jury, some of the testimony you're going to hear from

1 Special Agent Hilliard will include hearsay which means he's  
2 not going to testify solely about his own personal  
3 observations but will also be testifying about what others  
4 have told him and what he has read in reports and documents  
5 prepared by people.

6 As you certainly know, hearsay evidence is  
7 admissible and proper in these grand jury proceedings. You  
8 are permitted to rely on it in determining whether there is  
9 probable cause to indict the defendant. But if you want to  
10 hear the testimony of any other witnesses, you have a right  
11 to request it, and we'll make reasonable efforts to bring  
12 that witness before you.

13 BY MR. MONTELEONI:

14 Q. Now Special Agent Hilliard, the last time, do you  
15 recall using a slide deck as part of your testimony?

16 A. I do.

17 Q. That slide deck is in evidence already as  
18 Grand Jury Exhibit 2, but in front of you should be a copy  
19 of a new slide deck marked Grand Jury Exhibit 31 which is  
20 also up on the screen.

21 Is this a document that you've reviewed prior to  
22 testifying?

23 A. It is.

24 Q. Is that a PowerPoint presentation about the case?

25 A. Yes, it is.

1 Q. Does it contain excerpts of other Grand Jury  
2 Exhibits that we're going to be presenting today?

3 A. It does.

4 Q. As well as some slides from the previous slide  
5 deck for context?

6 A. Yes.

7 Q. Back when you testified in 2019 was Calk the CEO  
8 of the Federal Savings Bank?

9 A. He was.

10 Q. Chairman of its board?

11 A. Yes.

12 Q. CEO of the holding company?

13 A. Yes.

14 Q. Chairman of the holding company's board?

15 A. Yes.

16 Q. Following your testimony was Calk indicted by this  
17 grand jury?

18 A. He was.

19 Q. After his indictment did he continue being  
20 chairman or CEO of the bank or holding company?

21 A. No.

22 MR. MONTELEONI. Ladies and gentlemen of the  
23 grand jury, please don't consider the fact that he's no  
24 longer the chairman or CEO of the bank or holding company as  
25 a reason to return, or not to return, a superseding

1 indictment against him. We're telling you this as  
2 background for the changes in the superseding indictment  
3 which is just updating its description of Calk's employment  
4 status; not because it's evidence that he committed any of  
5 the offenses.

6 BY MR. MONTELEONI:

7 Q. Is Mr. Calk still a majority owner of the bank  
8 Special Agent Hilliard?

9 A. He is.

10 Q. Now I want to ask you about something that  
11 happened around the time of the 2016 election. For that, I  
12 would like to briefly go back to a slide from the previous  
13 slide deck describing the phases of the alleged offense.

14 Showing you Slide 2 from Grand Jury Exhibit 31,  
15 just taken from the previous slide deck, does this describe  
16 the phases of the events?

17 A. It does.

18 Q. One of these phases is a 9.5 million dollar loan  
19 phase. The first thing I want to ask you about relates to  
20 this 9.5 million dollar loan phase, so I'd like to show you  
21 another slide from the previous deck, Slide 3. Could you  
22 please read to the grand jury the bullet in blue,  
23 summarizing the 9.5 million dollar loan, on Slide 3?

24 A. Sure. Bullet point number 1) Manafort abandons  
25 California refinance and instead seeks 9.5 million dollar

1 loan. Bullet point number 2) 9.5 million dollar loan  
2 rejected by bank, then approved after Presidential election.  
3 Bullet point number 3) Court seeks Manafort's assistance  
4 getting a senior administration job through loan officer and  
5 directly.

6 Q. Thank you. So drilling down on the Presidential  
7 election part of the timeline, I'd like to show you another  
8 slide from that first deck, Slide 4, showing that leading up  
9 to the Presidential election, and were asked for the  
10 9.5 million dollar loan, the bank has rejected that loan and  
11 tried to get another bank to extend it.

12 Now, what date is this Presidential election?

13 A. It's November 8, 2016.

14 Q. Turning to Slide 5, which is a new addition to  
15 this timeline, can you please read the bulleted item for  
16 November 9, 2016?

17 A. Yes. Manafort forwards Calk election night text  
18 to son-in-law and real estate lawyer.

19 Q. And drawing your attention to the email that's  
20 excerpted here, is that an excerpt of Grand Jury Exhibit 32?

21 A. Yes, it is.

22 Q. Who is the sender of the email?

23 A. Mr. Paul Manafort.

24 Q. Directing your attention to the two Exhibits; is  
25 bbaldinger@baldingerlaw.com an email from Bruce Baldinger?

1 A. Yes, it is.

2 Q. Is that Manafort's real estate lawyer?

3 A. Yes, he was.

4 Q. As a real estate lawyer was he going to be  
5 involved in closing the 9.5 million dollar loan?

6 A. Yes, he was.

7 Q. Is the other recipient Jeff Yohai, Manafort's  
8 son-in-law?

9 A. Yes.

10 Q. Jeff Yohai hoping to get some of his expenses paid  
11 from the 9.5 million dollar loan with his father-in-law?

12 A. Yes, he was.

13 Q. Please read the subject line that you have.

14 A. Update.

15 Q. What's the date of this email with the subject  
16 "Update"?

17 A. November 9, 2016.

18 Q. What time?

19 A. 9:20:57 a.m.

20 Q. Please read the first line of the email.

21 A. Got this from Steve last night.

22 Q. So when this email says last night, what night  
23 would that be?

24 A. That would be the night of November 8, 2016.

25 Q. Election night?

1 A. Yes.

2 Q. After "got this from Steve last night" there are  
3 two paragraphs with quotation marks around them. I'm going  
4 to read these briefly.

5 It says: Paul, I hope you're having a great night.  
6 We should have your approval all wrapped up by tomorrow at  
7 12. Enjoy the rest of your evening. I'll speak to you  
8 then. Paul, I've got press all day tomorrow. When can we  
9 speak to schedule a closing? Do you need me in New York?  
10 Ready to support in any way.

11 So directing your attention to those paragraphs,  
12 referring back to where it says, we should have your  
13 approval all wrapped up by tomorrow at 12, is it fair to say  
14 that as of election night Manafort was still waiting for  
15 approval of the 9.5 million dollar loan?

16 A. Yes, he was.

17 Q. And where it says, do you need me in New York?  
18 I'm ready to support in any way, where was the headquarters  
19 of the Trump Presidential Campaign in 2016?

20 A. It was located in New York.

21 Q. Was it in the Trump Tower?

22 A. Yes.

23 Q. An office building in Manhattan?

24 A. Yes, it is.

25 Q. Was that also where the Presidential transition

1 was subsequently --

2 A. Yes, it was.

3 Q. Was this email found from Manafort's son-in-law's  
4 account?

5 A. Yes, it was.

6 Q. Did you ever locate the original text through  
7 other messages within these quotation marks?

8 A. No, we did not.

9 Q. Turning to Slide 6, directing your attention to  
10 this excerpt of Grand Jury Exhibit 33, is this a contact  
11 entry found on Calk's phone?

12 A. Yes, it was.

13 Q. What type of application does this contact entry  
14 come from?

15 A. WhatsApp application.

16 Q. Is WhatsApp an encrypted messaging system?

17 A. Yes, it is.

18 Q. So does this entry reflect that there was a  
19 contact item in the WhatsApp app that was stored on Calk's  
20 phone, containing the WhatsApp details for Paul Manafort?

21 A. Yes.

22 Q. Is law enforcement always able to recover WhatsApp  
23 messages when it executes a warrant on a phone?

24 A. No we are not.

25 Q. So if Calk and Manafort had exchanged messages

1 with WhatsApp, could law enforcement necessarily have been  
2 able to get them?

3 A. No.

4 Q. Just for context, directing your attention to  
5 Slide 7, the November 9, 2016 email we just looked at is in  
6 blue, is everything in black, after it, the rest of the  
7 timeline of the 9.5 million dollar loan phase that we  
8 discussed the last time we testified about this  
9 investigation?

10 A. Yes, it is.

11 Q. All right. As a reminder, you previously  
12 testified about the charges that the Special Council's  
13 office brought against Manafort; that testimony is in  
14 Grand Jury Exhibit 43. But is it fair to say that among the  
15 things he was charged with was fraud against the Federal  
16 Savings Bank in connection with his application of these  
17 loans?

18 A. Yes, he was.

19 Q. You also testified to the grand jury previously  
20 about Manafort proffering with the investigators in some  
21 statements he made there; that testimony is also in the  
22 transcript Grand Jury Exhibit 43. But is it fair to say  
23 that in his proffers Manafort claimed there was no --  
24 protocol with Calk?

25 A. Yes, he did.

1 Q. Is it also fair to say that there are a number of  
2 facts suggesting that Manafort has made a number of false  
3 statements?

4 A. Yes.

5 Q. False statements to government investigators and  
6 also committed a number of acts involving deception in his  
7 life?

8 A. Yes.

9 Q. Have you told the grand jury everything that you  
10 know about this case, or have you merely answered the  
11 questions that we've asked?

A. Just merely answered the questions.

13 Q. When you testified about conversations that you've  
14 had with others or documents you reviewed, did you testify  
15 to the exact words or just the substance?

16 || A. Just the substance.

17 Q. Willing to return to the grand jury if the grand  
18 jurors have any questions for you?

A.     Absolutely.

20 MR. MONTELEONI. With the Foreperson's permission  
21 I'll ask that Special Agent Hilliard be excused.

22 THE FOREPERSON. Sure.

WITNESS. Thank you.

24 (Witness Excused)

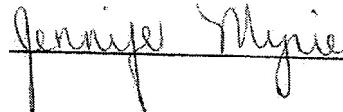
25 || (Time Noted: 4:00 p.m.)

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3                   I hereby certify that the foregoing is a true and  
4 accurate transcription, to the best of my skill and ability,  
5 from my electronic notes of this proceeding.

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March 18, 2021

8 Date

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Jennifer Myrie  
Acting Grand Jury Reporter  
Free State Reporting, Inc.